

HOUSE No. 1659

By Mr. Hall of Westford, petition of Geoffrey D. Hall and Steven C. Panagiotakos relative to the procurement of public contracts in the Commonwealth. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT RELATIVE TO CHAPTER 30B OF THE GENERAL LAWS AND THE PROCUREMENT OF PUBLIC CONTRACTS IN THE COMMONWEALTH.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 1(b) clause (27) of chapter 30B of the
2 General Laws, as appearing in the 2002 Official Edition, is hereby
3 amended by inserting after the word “health” in line 73, the
4 following words:— or a municipal board of health:.

1 SECTION 2. Chapter 30B of the General Laws, as appearing in
2 the 2002 Official Edition, is amended by inserting after section 1
3 the following new section:—

4 Section 1A. The inspector general shall create within the
5 internet website of the office of the inspector general an acces-
6 sible link which shall permit the downloading of, in a booklet
7 format and titled “The Inspector General’s Guide For Officials Of
8 Governmental Bodies Relative To The Procurement Law And
9 Public Bidding Laws of the Commonwealth”, containing chapter
10 30B, sections 38A½ thru 38O, inclusive, of chapter 7, section
11 39M of Chapter 30, sections 26 thru 29C and sections 44A thru
12 44H, inclusive, of chapter 149 of the General Laws, or any rules
13 or regulations, or amendments thereto, relating to the public
14 bidding laws of the commonwealth. The Inspector General shall
15 cause said site, and such booklet, to reflect any change in said
16 statutes or rules and regulations or when he deems it necessary.

17 In addition, the inspector general shall provide a link within his
18 website permitting entrance to the website of the state office of
19 minority and women owned business assistance (SOMBA). This
20 link, and the access thereto, shall educate and assist chief procure-
21 ment officers and procurement officers of governmental bodies in
22 acquiring the necessary information, opportunity, and responsi-
23 bility of seeking out minority and women owned business to par-
24 ticipate in procurements and contracts awarded by said officers.

25 The town clerk of a town, the city clerk of a city, or any other
26 authorized appointing authority in a governmental body, which
27 ever the case may be, shall provide each elected and appointed
28 official at the time of swearing in, or appointment, a downloaded
29 copy of the Inspector General's online booklet titled "The
30 Inspector General's Guide For Officials Of Governmental Bodies
31 Relative To The Procurement And Public Bidding Laws of the
32 Commonwealth". The aforementioned booklet shall contain, at the
33 end thereof, a detachable informed consent page which shall be
34 signed by the recipient of said booklet, acknowledging his receipt
35 of such booklet and of the responsibility of said recipient to faith-
36 fully follow the provisions of the laws contained therein when
37 making any public procurement or in the awarding of any public
38 contract, at the time of such swearing in or appointment and that a
39 copy of said signed page shall be kept on file in the office of the
40 official of the governmental body having the authority to so swear
41 in or make such appointment.

1 SECTION 3. Section 2 of chapter 30B of the General Laws, as
2 appearing in the 2002 Official Edition, is amended by inserting at
3 the end of line 23 the following new sentence:— An individual
4 who has obtained certification through the Massachusetts certified
5 public purchasing official program administered by the office of
6 the inspector general and who has been appointed by the munic-
7 ipal board of health to procure all supplies and services for said
8 board.

1 SECTION 4. Section 38R of Chapter 71 of the General Laws,
2 as found in the 2002 Official Edition, is hereby amended by
3 striking in lines 4 through 5, the phrase, "all available criminal
4 offender record information," and inserting in place thereof the

5 following:— criminal offender record information as it relates
6 only to those cases that are either pending or that have resulted in
7 convictions.

1 SECTION 5. Section 38R of Chapter 71 of the General Laws,
2 as found in the 2002 Official Edition, is hereby amended by
3 striking in lines 10 through 11, the phrase, “all available criminal
4 offender record information,” and inserting in place thereof the
5 following:— criminal offender record information as it relates
6 only to those cases that are either pending or that have resulted in
7 convictions.

1 SECTION 6. Section 38R of Chapter 71 of the General Laws,
2 as found in the 2002 Official Edition, is hereby amended by
3 striking in lines 14 through 15, the phrase, “all criminal offender
4 record information,” and inserting in place thereof the
5 following:— criminal offender record information as it relates
6 only to those cases that are either pending or that have resulted in
7 convictions.

1 SECTION 7. Chapter 30B of the General Laws, as appearing in
2 the 2002 Official Edition, is hereby amended by inserting after
3 Section 9 the following new section:—

4 Section 9A. A governmental body may cancel an invitation for
5 bids, a request for proposals, or other solicitation, or may reject
6 any such bids, proposals, or other solicitations for a contract with
7 a school department or district if said governmental body deter-
8 mines that any such bids, proposals, or other solicitations have
9 been submitted by a person, as defined in section 2 of this chapter,
10 who has been found to have a pending criminal matter or a crim-
11 inal conviction of any kind, or that any employee of said person
12 has been found to have a pending criminal matter or a criminal
13 conviction record of any kind.

14 A governmental body may cancel an invitation for bids, a
15 request for proposals, or other solicitation, or may reject any such
16 bids, proposals, or other solicitations for a contract with a school
17 department or district if said governmental body determines that
18 any such bids, proposals, or other solicitations have been sub-
19 mitted by a person who has been convicted, at any time, for the

20 violation of any state or federal statute which if such a violation
21 were to have been committed by an employee of said department
22 or district, could otherwise result in the termination of such an
23 employee of said department or district, or if, in likewise manner,
24 said governmental body determines that any employee of said
25 person has been convicted for the violation of any state or federal
26 statute which, if such a violation were to have been committed by
27 an employee of said department or district, could otherwise result
28 in the termination of such an employee of said department or dis-
29 trict.

1 SECTION 8. Chapter 30B of the General Laws, as appearing in
2 the 2002 Official Edition, is hereby further amended by inserting
3 after section 10 the following new sections:—

4 Section 10A. Notwithstanding the provisions of any general or
5 special law or any rule or regulation to the contrary, and in addi-
6 tion to the penalties of perjury prescribed herein, any person, as
7 defined in section 2 of this chapter, having a contract with a
8 school department or district who fails to submit the name of any
9 employee of said person, who in the course of said employee's
10 work under said contract may have contact with any student of
11 said department or district, to the chief of police of the munici-
12 pality of said department or district requesting that said chief con-
13 duct a Criminal Offender Record Information (CORI) check on
14 said employee. Said person shall be punished by a fine of not less
15 than ten thousand dollars nor more than fifteen thousand dollars
16 for each violation of this paragraph. Any person having a contract
17 with a school department or district who knowingly employs, or
18 permits to be employed by said person, or who said person trans-
19 fers or causes to be transferred from one municipality to another
20 any employee thereof, who may in the course of said employee's
21 work come in contact with any student of said department or dis-
22 trict, or any other school department or district in the Common-
23 wealth, and who has a pending criminal matter or a criminal
24 conviction of any kind. Said person shall be subject to a fine of
25 not less than twenty-five thousand dollars nor more than fifty
26 thousand dollars for any such violation of this paragraph. Who-
27 ever is convicted of a violation of this paragraph shall be prohib-
28 ited from contracting, directly or indirectly, with any city or town
29 for a period of five years.

30 A person submitting a bid or a proposal for the procurement or
31 disposal of supplies or services to a school department or district
32 in which any employee of said person will in the course of said
33 employee's work under any such bid or proposal have contact
34 with students of said department or district at any time shall cer-
35 tify in writing, on the bid proposal, as follows:

36 The undersigned person certifies under penalties of perjury
37 that, annually, on a date set by the school department or district,
38 said person has submitted to the superintendent thereof a complete
39 list, and any changes thereto during the course of the year, of all
40 employees of said person who, in the course of their work under
41 this contract, may have contact with any student of said school
42 department or district, and that said person shall have submitted,
43 prior to the aforementioned said date and prior to said list's sub-
44 mission to said superintendent, an official request of the chief of
45 police of the municipality of said department or district that said
46 chief conduct a Criminal Offender Record Information (CORI)
47 check of all employees on said list, and any changes thereto
48 during the course of said year, and that as a condition of such
49 employment with the undersigned each such employee shall be
50 found to have no pending criminal matter or criminal conviction
51 for violation of any state or federal statute, which if such a viola-
52 tion were to be committed by an employee of said department or
53 district could otherwise result in the termination of such an
54 employee of said department or district.

55 In addition to any other information said school department or
56 district may deem necessary, the aforementioned list, and any
57 change made thereto, shall contain the name, social security
58 number, address, telephone number, and date of birth of any such
59 employee.

60 As used in this certification, the word "person" shall mean any
61 natural person, business, partnership, corporation, union, com-
62 mittee, club, or other organization, entity, or group of individuals.

63 _____
64 (Signature of individual submitting bid or proposal)

65 _____
66 (Name of business)

67 Section 10B. Notwithstanding the provision of any general or
68 special law or any rule or regulation to the contrary, no person, as
69 defined in section 2 of this chapter, having a contract with a
70 school department or district shall permit any employee of said
71 person, who in the course of said employee's work may have con-
72 tact with any student of said department or district, to work as a
73 part-time, or a substitute or emergency replacement employee at
74 any time during the term of such contract until, and unless, said
75 person has notified the superintendent of said school department
76 or district, that said person has submitted an official request to the
77 chief of police of the municipality of the school department or dis-
78 trict requesting and that said chief conduct a Criminal Offender
79 Record Information (CORI) check of said employee, and that, to
80 the satisfaction of said chief and said superintendent, said
81 employee has been found to have no pending criminal matter nor
82 a criminal conviction for violation of any state or federal statute,
83 which if such a violation were to be committed by an employee of
84 said department or district could otherwise result in the termina-
85 tion of such an employee of said department or district. Said
86 person shall be punished by a fine of not less than ten thousand
87 dollars nor more than fifteen thousand dollars for each violation
88 of this paragraph.

1 SECTION 9. Chapter 30B of the General Laws, as appearing in
2 the 2002 Official Edition, is hereby further amended by inserting
3 after section 12 the following new section:—

4 Section 12A. A governmental body may null and void a con-
5 tract with a school department or district of a person, as defined in
6 section 2 of this chapter, if said governmental body determines
7 that said person, or any employee thereof, is found to have a
8 pending criminal matter or a criminal conviction of any kind.

9 A governmental body may suspend any such contract, for so
10 long as it may determine, at any time during the term of said con-
11 tract, if said governmental body becomes aware that said person,
12 or any employee thereof, has a pending criminal matter for the
13 violation of any state or federal statute which if such a violation
14 were to be committed by an employee of said department or dis-
15 trict could otherwise result in the termination of such an employee
16 of said department or district.

17 In likewise manner, a governmental body may null and void
18 any such contract, at any time during the term of said contract, if
19 said governmental body becomes aware that said person, or any
20 employee thereof, has a pending criminal matter or has been con-
21 victed for the violation of any state or federal statute which if such
22 a violation were to be committed by an employee of said depart-
23 ment or district could otherwise result in the termination of such
24 an employee of said department or district.

1 SECTION 10. Chapter 30B of the General Laws, as found in
2 the 2002 Official Edition, is hereby amended by inserting after
3 section 16 thereof the following new section:—

4 Section 16A. A governmental body may, after receiving
5 approval by a majority vote of a city council in the case of a city,
6 or after receiving approval by a majority vote at an annual or
7 special town meeting in the case of a town, rent for less than fair
8 market value any municipally-owned real property to a locally
9 based “civic group, fraternal organization, or veterans organiza-
10 tion”, or “youth or adult athletic league”, as defined by section 1
11 of this chapter, for an original term not to exceed 10 years. Said
12 rental shall not be subject to the provisions of paragraphs (c), (d),
13 (e), and (f) of section 16 of this chapter.

14 The original rental term authorized by the first paragraph of
15 this section may be renewed during the final year of said term for
16 an additional term not to exceed 10 years by said city or town, but
17 only after approval for such a renewal has been granted by a
18 majority vote of the city council taken at a meeting held during
19 the final year of said original term, or by a majority vote of the
20 town taken at an annual or special town meeting held for such
21 purpose during the final year of said original term.

22 In likewise manner, any further renewal of a rental authorized
23 by the first or second paragraphs by this section shall not exceed a
24 term of 10 years, nor shall any such renewal be exercised by a city
25 or town except during the final year of such renewal term, and
26 then only after approval for such a renewal term has been granted
27 by a majority vote of city council taken at a meeting held during
28 the final year of said renewal term, or by a majority vote of the
29 town taken at an annual or special town meeting held for such
30 purpose during the final year of said renewal term.

1 SECTION 11. Section 44 of chapter 23A of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 inserting after paragraph (10) the following new paragraph:—

4 (12) SOMWBA shall establish within the internet website of
5 said agency, and develop a link to the office of the inspector
6 general, to provide, maintain and update periodically a list of
7 minority and women owned businesses by geographic region
8 within the commonwealth, such list to be to be utilized by a gov-
9 ernmental body, as defined in section 2 of chapter 30B of the
10 General Laws, or by a public agency, as defined by section 39A of
11 chapter 7 of the General Laws, whichever the case may be, who
12 have indicated a willingness and have an ability to provide sup-
13 plies and services to governmental bodies under the provisions of
14 said chapter 30B, or to bid on public construction projects under
15 the provision of sections 38A½ thru 38O, inclusive, of chapter 7,
16 section 39M of Chapter 30, and sections 44A thru 44H, inclusive,
17 of chapter 149 of the General Laws.

1 SECTION 12. Chapter 71 of the General Laws, as appearing in
2 the 2002 Official Edition, is hereby amended by inserting after
3 section 7C the following new section:—

4 Section 7D. Notwithstanding the provisions of any general or
5 special law or any rule or regulation to the contrary, all school
6 buses in the Commonwealth shall be equipped with a see through
7 Plexiglas display device attached to and located on the interior
8 front of said bus above near the right forward facing window. Said
9 display device shall permit, at all times, in an unobscured and
10 prominently displayed fashion on each school bus the bus driver's
11 valid commercial driver's license (CDL). All school bus drivers in
12 the Commonwealth shall display their valid and most recent com-
13 mercial driver's license (CDL) at all times in the Plexiglas display
14 device when operating said school bus. Failure of the school bus
15 owner to equip or to maintain said display device properly, at any
16 time, shall result in a two hundred and fifty dollar fine to the
17 owner of said school bus for each school bus found in violation of
18 this paragraph by any school department.

19 Notwithstanding the provisions of any general or special law or
20 any rule or regulation to the contrary, the driver of each school
21 bus shall display at all times when operating said school bus, in

22 the display device described in the first paragraph, said driver's
23 valid and most recent commercial driver's license (CDL) and a
24 most up to date passport size picture of themselves. If the school
25 department or district finds that the school bus driver has failed to
26 display the driver's commercial driver's license (CDL) and picture
27 properly in the display device said driver shall be fined fifty dol-
28 lars for the driver's first violation, and one hundred dollars for
29 each violation by said driver thereafter.

1 SECTION 13. Chapter 90 of the General Laws, as appearing in
2 the 2002 Official Edition, is hereby amended by inserting after
3 section 8A½ the following paragraph new section:—

4 Section 8A¾. Notwithstanding the provisions of any general or
5 special law or any rule or regulation to the contrary, all school
6 buses in the Commonwealth shall be equipped with a see through
7 Plexiglas display device attached to and located on the interior
8 front of said bus above near the right forward facing window. Said
9 display device shall permit, at all times, an unobscured view of
10 the school bus driver's valid commercial driver's license (CDL).
11 All school bus drivers in the Commonwealth shall display their
12 valid and most recent commercial driver's license (CDL) at all
13 times in the Plexiglas display device when operating said school
14 bus. Failure of the school bus owner to equip or to maintain said
15 display device properly, at any time, shall result in a two hundred
16 and fifty dollar fine to the owner of said school bus for each
17 school bus found in violation of this paragraph by any school
18 department.

19 Notwithstanding the provisions of any general or special law or
20 any rule or regulation to the contrary, the driver of each school
21 bus shall display at all time when operating said school bus, in the
22 display device described in the first paragraph, said driver's valid
23 and most recent commercial driver's license (CDL) and a most up
24 to date passport size picture of themselves. If the school depart-
25 ment or district finds that the school bus driver has failed to dis-
26 play the driver's commercial driver's license (CDL) and picture
27 properly in the display device said driver shall be fined fifty dol-
28 lars for the driver's first violation, and one hundred dollars for
29 each violation by said driver thereafter.

1 SECTION 14. Section 2 of Chapter 30B of the General Laws,
2 as found in the 2002 Official Edition, is hereby amended by
3 inserting after line 27 the following words:—

4 “Civic group”, an organization dedicated to or encouraging
5 agriculture, horticulture, antiquarian, artistic, educational, histor-
6 ical, musical, parent teachers association, philanthropic, patriotic
7 purposes, literary clubs, youth groups such as boys, girls clubs,
8 boy scouts or cub scouts, girl scouts or brownies, Four H clubs, or
9 school boosters clubs.

1 SECTION 15. Section 2 of Chapter 30B of the General Laws,
2 as found in the 2002 Official Edition, is hereby further amended
3 by inserting after line 42 the following words:—

4 “Fraternal organization”, an incorporated society, order or
5 supreme lodge, without capital stock, conducted solely for the
6 benefit of its members and their beneficiaries, and not for profit,
7 operated on a lodge system with ritualistic form of work, having a
8 representative form of government, and which makes provision
9 for the payment of benefits in accordance with chapter 176 of the
10 General Laws.

1 SECTION 16. Said Section 2 of Chapter 30B of the General
2 Laws, as found in the 2002 Official Edition, is further amended by
3 inserting after line 97 the following words:—

4 “Veterans organizations”, a veteran’s organization incorporated
5 or chartered by the congress of the United States.

6 “Youth or adult athletic league”, an organization or league
7 made up of adults or youth which is locally operated, based or
8 established and engaging or operating a formal league in con-
9 ducting competitions, including but not limited to, the following
10 sports: baseball, basketball, cycling, figure skating, gymnastics,
11 hockey, jogging, lacrosse, sailing, skateboarding, skiing, soccer,
12 softball, swimming, track or volleyball.

1 SECTION 17. Section 4 of chapter 30B of the General Laws is
2 hereby amended by striking out subsections(a), (b), and (c) and
3 inserting in place thereof the following:—

4 (d) Except as permitted pursuant to section six or seven, for the
5 procurement of a supply or service in the amount of \$10,000 or

6 greater, but less than \$25,000, a procurement officer shall seek
7 written or oral quotations from no fewer than three persons cus-
8 tomarily providing such supply or service. The Procurement
9 officer shall record the names and addresses of all persons from
10 whom oral quotations were sought, the names and addresses of
11 persons submitting written quotations together with the date and
12 amount of each such quotation. A governmental body may require
13 that procurements in amounts less than \$25,000 be based on
14 written quotations or be subject to section 5.

15 (e) The procurement officer shall award the contract to the
16 responsible person offering the needed quality or quantity of
17 supply or service at the lowest quotation.

18 (f) A procurement in the amount of less than \$10,000 shall be
19 obtained through the exercise of sound business practices, pro-
20 vided however, the process established in (g) paragraph (a) of this
21 section may required by a governmental body, or utilized by a
22 procurement officer, if it deems desirable for any such procure-
23 ment by said body or officer.